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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,602	06/27/2003	Heinz Michels	A03757	7613

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LERNER AND GREENBERG, PA
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HOLLYWOOD, FL 33022-2480

EXAMINER

CRAWFORD, GENE O

ART UNIT PAPER NUMBER

3651

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/607,602

Applicant(s)

MICHELS ET AL.

Examiner

Gene O. Crawford

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 9-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8, 12 and 15-17 is/are rejected.
- 7) ☒ Claim(s) 7, 13 and 14 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 5/28/2003.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the 'sliding means' and/or 'threaded shaft exhibiting two opposing threads so the deflecting elements may slide laterally' in claims 9 and 10 must be shown or the features canceled from the claims. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-6, 8 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Holtje.

The device for stacking sheets disclosed by Holtje includes all the claimed features and in particular includes: **(claim 1)** at least one deflecting element 50 rotatably mounted above a sheet stack in the area of a leading edge and having deflecting fins 56; a controller for driving the deflecting element (column 4, lines 63-65); **(claims 2, 3)** the sheet limited in the transport direction by stop 40, 80 the stop exhibiting a radius in the area of the upper edge of the stack in which the fin is congruent; **(claim 4)** the deflecting fin having a side element 69, 70 for lowering an edge of the topmost sheet onto the stack; **(claim 5)** side element including a tab 32 for suppressing the dimensions of the topmost sheet (column 7, lines 65 thru column 8, lines 16); **(claim 6)** at least two side elements for providing a vertical stop for deflected sheet material (figure 3); and **(claim 8)** two deflecting elements arranged symmetrically to the centerline of transport movement (figure 3).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Holtje in view of Ogasawara et al.

With regard to claim 15, Holtje includes all the claimed features but does not disclose a hold down element. However, Ogasawara et al. discloses the broad teaching of providing a hold-down element for guiding a next sheet onto a stack in a sheet stacking device. It would have been obvious to one of ordinary skill in the art to provide the sheet stacking device of Holtje include a hold down element to facilitate guiding of a sheet being transferred to the top of a stack as taught by Ogasawara et al.

6. Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Holtje in view of Ogasawara et al., and further in view of Masotta.

With regard to claims 16 and 17, Holtje in view of Ogasawara et al. include all the claimed features but do not disclose a measuring unit connected to a hold down means and stack adjusting element. However, Masotta discloses the broad teaching of providing a stack adjusting element/measuring unit 700 connected to a hold down means 716 as broadly claimed. It would have been obvious to one of ordinary skill in the art to provide the hold means of Holtje in view of Ogasawara et al. include a stack

Art Unit: 3651

adjusting element/measuring unit 700 connected to a hold down means to facilitate maintaining the stack at a desired height as taught by Masotta.

Allowable Subject Matter

7. Claims 7, 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. The following is a statement of reasons for the indication of allowable subject matter: a sheet stacking device including the unique features of (i) 'a side element formed with a recess in the area of the deflecting fins'; and (ii) 'at least one driving fin in combination with a deflecting fin' in combination with the rest of the claim language is not taught or fairly suggested by the prior art.

Conclusion

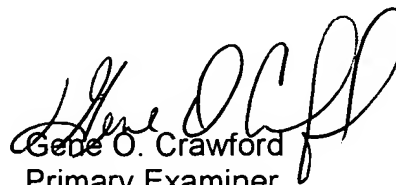
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following are cited to show the art with respect to sheet stacking devices having deflecting elements: Lynch, Vermaat, Emmrich, and Barthold.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gene O. Crawford whose telephone number is 703/305-9733. The examiner can normally be reached on Monday thru Thursday.

Art Unit: 3651

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on 703/308-1113. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Gene O. Crawford
Primary Examiner
Art Unit 3651
